Guide to the Preparation of Official Community Plans by Regional Districts

IMPLEMENTING BILL 62

Ministry of Municipal Affairs and Transit
HON. RITA M. JOHNSTON, MINISTER

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A GUIDE TO THE PREPARATION OF OFFICIAL COMMUNITY PLANS

BY REGIONAL DISTRICTS

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A GUIDE TO THE PREPARATION OF OFFICIAL COMMUNITY PLANS BY REGIONAL DISTRICTS

INTRODUCTION

This publication is a guide to the preparation and adoption of official community plans by regional districts pursuant to Part 29 of the Municipal Act.

This guide replaces the Ministry's 1978 publication **Technical Guide to the Preparation of Official Settlement Plans** and its 1983 publication **Procedures for the Preparation of Official Settlement Plans**.

The guide is divided into 4 parts:

Part A Procedures for Developing and Adopting an Official Community Plan

Part B Community Plan Areas: Criteria for Designation

Part C Some Content Considerations

Part D Provincial Approval Considerations

In addition, the Ministry has also published the following to assist you in enacting land use regulations under the revised Municipal Act:

(1) A Guide to the Development Permit System

(2) Bylaw Referral Procedures (Revised October 1986)

(3) A Guide to Rural Land Use Bylaws

A. PROCEDURES FOR DEVELOPING AND ADOPTING AN OFFICIAL COMMUNITY PLAN

This section describes the step-by-step procedures to be followed by regional districts when preparing a new official community plan or undertaking a major amendment to an existing plan[1].

A major amendment to an official community plan is any amendment which involves:

(i) a change in plan boundaries;
(ii) a review, revision, or addition of a major policy area; eg. agricultural policies, rural residential policies, industrial policies, hazard land policies;
(iii) a review, revision, or addition to the policies and/or designations applying to a sub-area of the plan, or any area greater than 40 hectares;
(iv) creation or deletion of a plan designation;
(v) incorporation of new infrastructure plans.

A flow chart on page 8 shows the sequence of steps described in the procedures below.

1. Decision to Prepare an Official Community Plan in a Regional District, or to Undertake a Major Amendment to an Official Community Plan

The first step in the preparation of a new official community plan in a regional district occurs when the board instructs staff to prepare a community plan area designation request for consideration by the Minister of Municipal Affairs and Transit.

The first step in undertaking a major amendment is to notify the Ministry of Municipal Affairs and Transit and other provincial agencies. Notification should include terms of reference for the major amendment. See Step 3 below.

2. Designation of a Community Plan Area

Section 944(3) of the Municipal Act requires the Minister of Municipal Affairs and Transit to designate the community plan area before a regional district prepares an official community plan for part of its unincorporated area.[2] The Board must by resolution request the Minister of Municipal Affairs and Transit to designate the community plan area.

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1 References to existing Official Community Plans include existing Official Settlement Plans adopted under Part 21 of the Municipal Act. Minor amendments to official community plans are to be made following the Ministry's Bylaw Referral Procedures (Revised October 1986).

2 Designation of a community plan area is only required for new official community plans, or amendments to existing official community plans (and OSPs) which involve changes to the boundaries. Existing official settlement plans can be amended without designation of their areas as community plan areas.

The regional district should send the following to the Development Services Branch of the Ministry of Municipal Affairs and Transit:

(a) A fully completed **Designation Request** form. (See Appendix A.)

(b) A Board resolution requesting the Minister to designate the community plan area.

(c) Two copies of a suitable map on which the boundaries have been clearly marked, and which bear the title "(Name) Community Plan Area". Please consult with the Development Services Branch for more information on the type of map required.

(d) Any other information which supports the need for a plan in the selected area, including indications of public support where this is available, and comments from provincial agencies.

The Board may wish to have a community plan area designated for an area which would otherwise not need an official community plan in order to use development permits to protect the natural environment or protect development from hazardous conditions (Section 945[4][a] or [b]). In this case, the environmental conditions that exist and, in general terms, how development permits will be used to control or ameliorate them should be described in the Designation Request Form or in attached terms of reference. (See also Section B.1 of this Guide.)

Where the Board wishes to address matters not listed in Section 945(2) or which are beyond local authority, as contemplated in Section 945(5), these should be discussed in an accompanying letter to the Minister.

Terms of reference may be attached to the Designation Request Form to assist the Minister when reviewing the designation proposal.

3. Notification of Provincial Agencies

The regional district is also required to notify provincial agencies and adjacent local governments of the proposal to prepare a community plan by sending a copy of the **Designation Request** (or in the case of a major amendment, where there is no designation request, a copy of the **terms of reference**) to:

(a) Ministry of Agriculture and Fisheries - District Agriculturalist
(b) Ministry of Agriculture and Fisheries - Farmland Resources Branch, Victoria

(c) Ministry of Energy, Mines and Petroleum Resources - Land Use Coordinating Office, Victoria
(d) Ministry of Environment and Parks - Manager, Planning and Mine Review Unit, Planning and Assessment Branch, Victoria
(e) Ministry of Environment and Parks - Environment Regional Director
(f) Ministry of Environment and Parks - Parks and Outdoor Recreation Division - Regional Director
(g) Regional Medical Health Officer
(h) Ministry of Forests and Lands - Regional Director - B.C. Lands
(i) Ministry of Forests and Lands - Forest Service District Manager
(j) Ministry of Transportation and Highways - Approving Officer
(k) The Provincial Agricultural Land Commission, Burnaby
(l) Any local government adjacent to the proposed plan area

Once again, in the case of a major amendment where no Designation Request has been sent to the Ministry of Municipal Affairs and Transit, the notification must also go to the Development Services Branch, Ministry of Municipal Affairs and Transit.

Notification to provincial agencies should be sent no later than the date the regional district sends the Designation Request to the Minister; however, the Ministry encourages earlier notification of provincial agencies so that their support and comments may be used as part of the designation request.

Within 30 calendar days, the agencies are requested to provide the following directly to the regional district:

(i) any special considerations which each agency wishes to see addressed by the plan, and

(ii) any information which the agency thinks may be useful in the preparation of the plan, and

(iii) indication as to whether they wish to participate further in the plan's preparation, including reviewing drafts of the plan.

If an agency has concerns about the boundaries of the proposed plan, these should be brought to the attention of the regional district and the Ministry as soon as possible.

In the event that an agency has special consideration of an unusual nature or of great importance, the agency should immediately advise the Development Services Branch. The Minister of Municipal Affairs and Transit will then be able to request the Board to address these matters in the plan pursuant to Section 945(2)(g) or 945(5) of the Municipal Act.

4. Designation of the Community Plan Area by the Minister

The Minister will review the request for designation of a community plan area. Section 946 of the Municipal Act states that the Minister may require evidence of public support and may require the board to hold a referendum before designating a community plan area.

If the Minister concurs with the designation request, he will attach a certificate designating the community plan area to one copy of the map and return this to the regional district. If the Minister does not concur with the designation request, Ministry staff will discuss the proposal with the regional district in order to reach agreement on a suitable boundary.

A decision on designation will be made more quickly if the request from the regional district is complete and well documented.

At this time, the Minister may also authorize or require the community plan to deal with certain matters pursuant to Section 945(2)(g) or 945(5) of the Municipal Act.

5. Plan Preparation

Once the community plan area has been designated by the Minister of Municipal Affairs and Transit, the regional district can proceed with the community plan.

Regional district staff should prepare the community plan in consultation with the advisory planning commission, public, Ministry of Municipal Affairs and Transit, and other concerned parties, including provincial agencies which identified interests at Step 3. This can be done via special purpose meetings or referral of drafts of the plan to those agencies.

As subsequent drafts of the plan are completed, they should be presented to and reviewed by the advisory planning commission, adjacent local governments, and the various provincial agencies, and also by the wider community through a public participation program.

It is important to note that this is the primary consultation stage for provincial agencies. The onus is on the regional district to ensure all interested agencies are given adequate opportunity to review subsequent drafts of the plan prior to public hearing. Likewise, provincial agencies are responsible for ensuring their positions are made known to the regional district prior to public hearing. In the event of any conflict between provincial agencies or between the regional district and one or more provincial agencies, the Ministry of Municipal Affairs and Transit will seek to resolve the dispute through consultation with the affected parties.

6. Examination, Referral and Confirmation

Section 948 of the Municipal Act requires the regional district to examine the plan in conjunction with specified matters and to refer the plan to affected local governments between 1st reading and public hearing.

(a) Examination

Pursuant to Section 948 of the Municipal Act, the board must examine all official community plan bylaws in conjunction with their most recent capital expenditure program and any applicable waste management plan or economic strategy plan. The intent of this examination is to ensure consistency between the official community plan, the regional district's capital expenditure program, and any waste management or economic strategy plan that is applicable in the community plan area. Where there are no such programs or plans, the regional district should advise the Ministry that this is the case.

The examination must be done after 1st reading and before public hearing, and the results of this examination must be sent to the Minister before the public hearing. A **Section 948 Submission Form** should be used to submit the required information to the Minister. (See sample in Appendix A.)

Receipt of the **Section 948 Submission Form** by the Ministry will not be acknowledged, but Ministry staff may contact the regional district if further information is required.

(b) Referral

Where the plan affects an area of an adjoining municipality or regional district, the Board must refer the plan to the council or board of that municipality or regional district for comment. Comments received from an adjoining municipality or regional district within 30 days[3] after the referral must be submitted to the Minister of Municipal Affairs and Transit before the public hearing (Municipal Act, Section 948[b]).

A plan or an amendment to a plan can be considered to "affect" an adjoining municipality or regional district if the area which is the subject of the plan is in general proximity to the adjoining municipality or regional district, or if the development contemplated by the plan is of such a type and size as to create an impact on the adjoining jurisdiction. Examples of such impact are: increased traffic, increased use of recreational facilities, reduction of downstream sewer capacity, and shift in community shopping patterns. Precise definition of "affect" will only be arrived at through court decision. The best rule of thumb is to put yourself in the other municipality's or regional district's position and consider whether your regional district would want to be advised. When in doubt, a referral makes sense.

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[3] Unlike other references in this guide, the 30 days required for referral are days as defined in the Municipal Act -- ie. excluding Sundays and holidays. All other references to days are "calendar" days -- ie. no days excluded.

(c) Confirmation

Prior to public hearing, the regional district shall refer the finalized community plan to those agencies which participated in the preparation of the plan for confirmation. It is not intended that new provincial considerations be raised at this time. Rather this referral is intended to ensure that provincial policies and interests identified earlier in the plan preparation process have been reflected in the plan submitted for provincial approval. A maximum period of 30 calendar days will be provided for the final review of the proposed community plan by the regional offices of provincial agencies. A **Bylaw Referral Form** may be used to facilitate this referral. (See Appendix A.)

If the regional district wishes, the **Section 948 Submission Form** may be included with the confirmation referral to the Ministry of Municipal Affairs and Transit.

7. Public Hearing

A public hearing is required for all official community plan bylaws. Where Section 948(a) applies, the public hearing cannot be held until at least 30 days after it was referred to the affected municipalities and/or regional districts.

It is anticipated that coordination of provincial concerns with the local concerns will be done prior to public hearing through discussion and consultation. It is possible, however, that new initiatives or initiatives from ministries or agencies not previously consulted may arise that require some consideration by both the regional district and the public. The public hearing could provide the forum for that kind of information.

8. Finalizing the Plan

Subsequent to the public hearing the regional district board will consider the results of the hearing and request any further technical input from its employees or consultants that may have been necessitated by comments made at hearing. Once the regional district has assured itself that the concerns of the community are accommodated in the draft, the plan is then ready to go to third reading.

If there have been any significant changes to the community plan as a result of the public hearing, the regional district must re-submit the amended portions of the plan for review by the provincial agencies who previously reviewed the plan for confirmation. This step will ensure that any changes resulting from the hearing do not conflict with provincial interests.

Subsequent to third reading, the regional district will submit the community plan to the Ministry of Municipal Affairs and Transit for approval.

A **Bylaw Submission Form** is to be completed by the regional district and submitted with all community plan bylaws prepared pursuant to these guidelines. A sample copy of the new form is included in Appendix A. (This replaces the old Bylaw Submission Form.)

9. Submission for Ministerial Approval

Regional districts are required to submit the following documentation with all official community plan bylaws in order to obtain the Minister's approval:

(a) 3 original bylaws certified as of third reading
(b) 1 completed Bylaw Submission Form
(c) 1 copy of public hearing minutes
(d) evidence that the plan was referred for confirmation and copies of any comments received (Step 6)

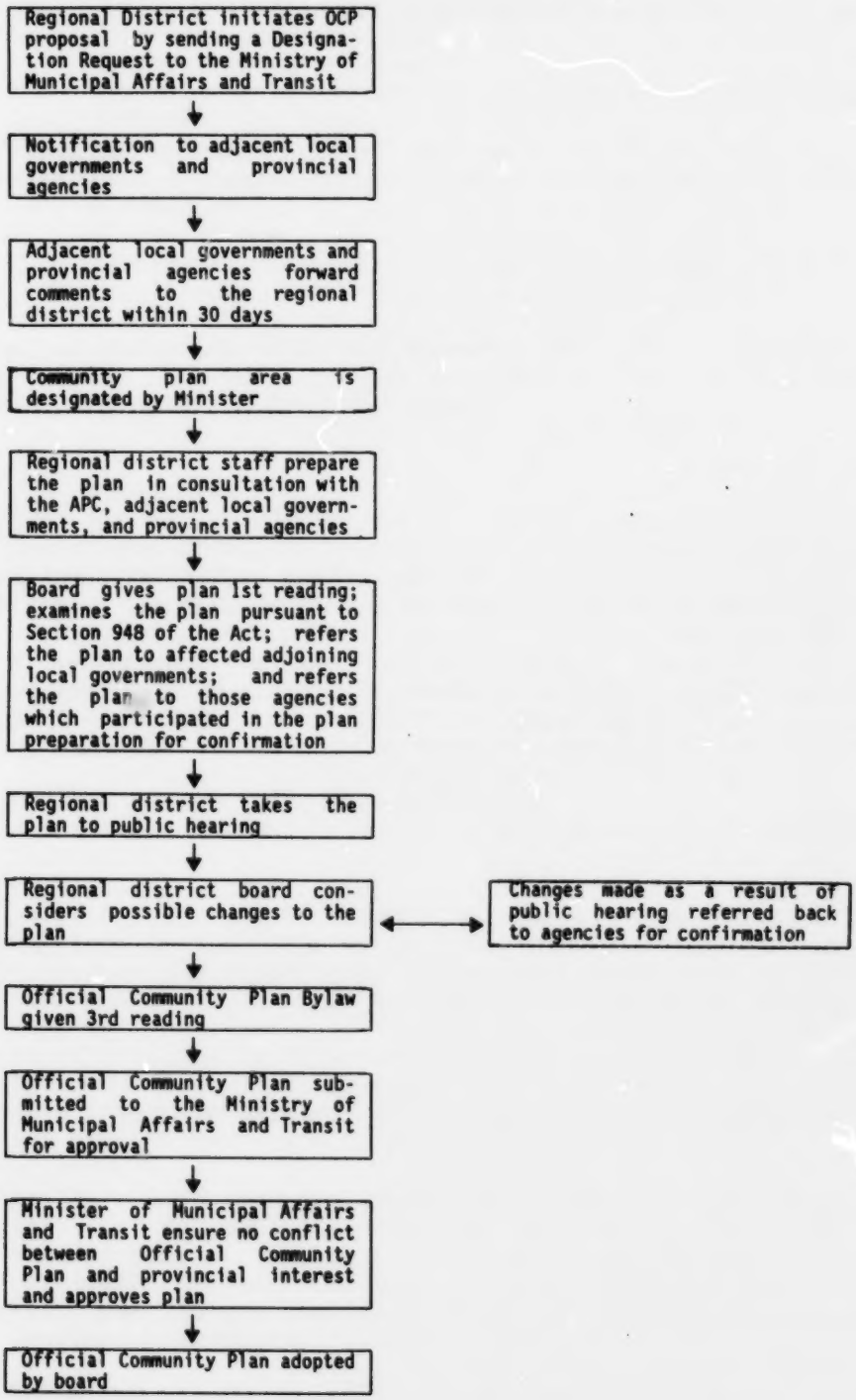
10. Ministerial Approval

Upon receipt of the proposed official community plan bylaw, the Minister of Municipal Affairs and Transit will review the plan to ensure that it is compatible with objectives and policies of the Provincial Government. The process set out in the steps above should ensure that all significant conflicts between the contents of the proposed community plan and provincial objectives and policies will have been resolved earlier in the process of preparing the plan. In the rare case where conflicts remain unresolved, they will be referred to the appropriate Ministers or to an inter-ministry staff committee for resolution prior to approval of the plan.

11. Adoption

After receiving the approval of the Minister of Municipal Affairs and Transit, the official community plan bylaw will be returned to the regional district for reconsideration and adoption by the regional board at which time the bylaw, and hence the plan, takes legal effect.

FLOW CHART FOR PLAN PREPARATION AND APPROVAL PROCEDURES


Regional District initiates OCP proposal by sending a Designation Request to the Ministry of Municipal Affairs and Transit
Notification to adjacent local governments and provincial agencies
Adjacent local governments and provincial agencies forward comments to the regional district within 30 days
Community plan area is designated by Minister
Regional district staff prepare the plan in consultation with the APC, adjacent local governments, and provincial agencies
Board gives plan 1st reading; examines the plan pursuant to Section 948 of the Act; refers the plan to affected adjoining local governments; and refers the plan to those agencies which participated in the plan preparation for confirmation
Regional district takes the plan to public hearing
Regional district board considers possible changes to the plan
Changes made as a result of public hearing referred back to agencies for confirmation
Official Community Plan Bylaw given 3rd reading
Official Community Plan submitted to the Ministry of Municipal Affairs and Transit for approval
Minister of Municipal Affairs and Transit ensure no conflict between Official Community Plan and provincial interest and approves plan
Official Community Plan adopted by board

B. COMMUNITY PLAN AREAS: CRITERIA FOR DESIGNATION

An official community plan is intended to be a policy document to guide the development of areas within the regional district which are being developed for settlement. Not all areas of a regional district will require official community plans. Some areas -- such as unpopulated resource areas -- may need no regulation at all or at most a simple zoning bylaw. Other areas -- mainly low density, unserviced rural areas -- may be adequately covered by a Rural Land Use Bylaw. This section describes areas which may be suitable for official community plans.

1. Candidate Areas for Official Community Plans in Regional Districts

All areas which could reasonably be expected to come under pressure for settlement are "candidate" areas for OCPs. The following is a partial list of such areas:

(a) unincorporated areas experiencing settlement growth pressures as evidenced by requests for rezonings and subdivision, or new services;

(b) unincorporated areas presently served by community sewer or water, or for which community services are planned;

(c) seasonal recreation developments in transition to permanent use;

(d) unincorporated communities experiencing economic and population growth requiring management or alternatively, experiencing economic and population decline, requiring redevelopment or revitalization;

(e) unincorporated areas designated or reserved for settlement in provincial agency plans, such as Crown Land Plans;

(f) remote areas about to experience instant urban development as a result of resource development.

Official community plans are intended to focus on residential settlement and accompanying urban uses. It is important to note, however, that a community plan will contain areas for which no settlement use is intended. Although an area may have been identified as requiring a community plan as a result of settlement pressure, the plan will probably not designate all of the land within the plan boundaries for conventional settlement uses such as residential, industrial or commercial. In some cases, the purpose of preparing a community plan may be to manage settlement pressure by confining and redirecting it.

One exception to the general rule that official community plans are intended for areas with a settlement focus is areas where the regional district wishes to use development permits to protect the natural environment or to protect development from hazardous conditions (Section 945[4][a] and [b] of the Municipal Act), or possibly, to protect a Provincial heritage site (Section 945[4][c]). Where such conditions exist in areas which otherwise would not require an official community plan, the regional district may wish to have a community plan area designated

to provide access to the development permit tool. In these cases, the regional district should carefully document the problem and describe how development permits would be used in the terms of reference submitted with the designation request. (See also Section A.2(c) of this Guide.)

Another alternative for the protection of hazardous or environmentally sensitive areas in rural areas is the rural land use bylaw. Part 2 of a rural land use bylaw can specify conditions, requirements and restrictions on the use of land that is subject to hazardous conditions or that is environmentally sensitive to development.

2. Criteria for Defining Community Plan Areas

Some of the situations which are likely to be the focus of an official community plan in a regional district are described above. The decision to actually undertake a plan when one of these situations has been identified will depend on:

(a) Local Issues Is there a local concern about development and settlement in the area? What is its nature? Plans should not be prepared for areas where no local concern exists.

(b) Jurisdiction Given the existence and nature of local concerns, does the regional district have the authority to prepare and implement plan policies which will address them?

In cases where one or more of the specific issues which have prompted undertaking the plan are primarily the responsibility of another agency, there may be means other than a community plan available to the regional district for dealing with these issues. Rural residents frequently expect the regional district to "do something" about matters which concern them. Frequently, the expectation of residents and the desire of regional districts to respond become the main reason for community plan preparation. Unfortunately, the initial matter of concern may be well beyond the statutory or budgetary capability of the regional district.

It may be more effective for a regional district to be an active participant in the planning process of another agency which has the ability to deal directly with the issue than to attempt to integrate the resolution of that issue within a community plan. This suggests caution in setting boundaries to include resource utilization issues. As an example, local government concern over domestic grazing and rural settlement conflicts or watershed protection issues may be more effectively addressed through active participation in the planning and land use management activities of the appropriate provincial agencies.

In addition to the above, the following are other considerations to be used to determine the extent and size of the plan area once the focus is selected:

. Boundaries should take into consideration visual and aesthetic considerations, such as access corridors and the height of land.

- Boundaries should, where possible, be defined by community geographic and man-made features.

- Boundaries should take into consideration political and administrative boundaries for the provision of services, especially specified areas and Improvement Districts.

3. Official Community Plans and Crown Lands

As it is the nature of the property rather than its ownership which determines whether or not land should be included within the boundaries of a community plan, both Crown and private land must be considered. Since community plans are prepared by local government in cooperation with provincial agencies and are approved by the Minister of Municipal Affairs and Transit, the community plan preparation process can be used to advise provincial agencies about concerns of local government with respect to the possible future use of Crown land as well as to inform the public of provincial agency plans for that land.

Section 943(2) of the Municipal Act prohibits a local government from adopting a community plan that would have the effect of restricting any forestry management activity relating to the production and harvesting of timber on any land that is classified as tree farm land under Section 24 of the Assessment Act, or located within a license area under the Forest Act.

C. SOME CONTENT CONSIDERATIONS

The content of official community plans is specified in Section 945 of the Municipal Act. All matters listed in 945(2) must be covered in the official community plan or a statement included in the plan as to why they are not relevant in the plan area. This section of the Guide discusses some new content requirements for official community plans introduced by Bill 62 and also discusses some frequently over-looked content considerations of plans gleaned from almost a decade of experience with regional district settlement plans.

1. New Requirements Resulting from Bill 62

Bill 62 introduced a number of new requirements for the content of official community plans. Besides the new list in Section 945(2), the most significant new requirements are:

(a) Requirement that development permit areas be designated in the official community plan (Section 945[4]);

(b) Requirement that an official community plan contain policies and designations respecting the location and type of future parks if the local government wishes to exercise its option for land or cash for parkland (Section 992[2]);

(c) Requirement that an official community plan only state broad objectives on matters for which local government doesn't have the jurisdiction to regulate (Section 945[5]);

The first item above is covered in Development Services Branch publication entitled "A Guide to the Development Permit System". The second and third items are discussed below.

(a) Parkland Provisions

Section 945(2)(b) of the Municipal Act, requires an official community plan to include policies on approximate location, amount and type of present and proposed recreational uses.

Pursuant to Section 992(2) of the Municipal Act, if a local government has policies in its official community plan dealing with future parks, it can, at its option, require a developer to provide land or cash for park purposes. Regional districts must also have the community parks function.

To meet the requirements of Section 992(2) the official community plan must contain the following:

(i) policies respecting the acquisition of park land by type of park (community parks, neighbourhood parks, tot lots, etc.) in various parts of the plan area; and

(ii) designations on the official community plan map showing either the general or specific location of proposed parks by type of park.

For more information, please refer to the Ministry circular **"Re: Park Land Requirements for Subdivision"** dated May 16, 1986.

(b) Matters Beyond the Jurisdiction of Local Government

Section 945(5) of the Municipal Act prohibits a local government from stating anything else but broad objectives on matters beyond their jurisdiction unless the Minister has specifically permitted it.

The key to this section are the words "a matter...the regulation of which is not within the jurisdiction of the local government...". If there is no means by which a local government can regulate or control a matter -- either through the enactment of a regulatory bylaw or by direct action of the local government -- then only a broad objective can be stated. Examples of matters which cannot be regulated are:

- Forest management practices. In most circumstances, local government cannot regulate clear cutting, road construction and other forest management practices, especially where these occur on Crown land. (The exceptions to this general rule are development permit areas pursuant to Section 945(4)(a) or (b) and areas subject to tree cutting permits. In these cases, tree cutting and development may be restricted or regulated provided the land in question is not in a tree farm or license area.)

- Use of Crown land. Local governments cannot designate Crown land for public use or prohibit development of Crown land without the agreement of the Ministry of Forests and Lands.

- Mineral extraction. While processing of raw materials is within the realm of local government regulation, extraction is not.

- Pollution control. With the exception of the ability to regulate septic tanks and drainage fields in certain types of development permit areas, pollution control is solely a matter of provincial regulation.

On these and similar matters, an official community plan cannot state a policy which would mislead the reader into believing the local government has some power to control or regulate it. However, a local government can have statements in their official community plan with respect to actions the board or council may take to persuade the agencies with authority to take certain actions. These statements are best included in a separate section on follow-up action, intergovernmental liaison, or implementation. Examples of acceptable statements are:

- Council will apply to the Provincial Agricultural Land Commission to have District Lot A excluded from the Agricultural Land Reserve.

- The Board will encourage the Ministry of Forests and Lands to restrict clear cutting on the south face of Blue Mountain.

- The Board will pursue the objective of having the Ministry of Forests and Lands extend the Lakeview Provincial Park boundaries to include the area shown on Schedule D as future park.

In each of these examples, the focus is an action the Council or Board can take. What the local government will do (apply, encourage, pursue) and who they will approach for action is clearly identified. Vaguely worded statements which could mislead the public are not acceptable. For example:

EXAMPLES OF POLICIES WHICH ARE NOT ACCEPTABLE

- Council will endeavour to prevent clear cutting of the south face of Blue Mountain.
- Mining will be discouraged in Happy Valley.
- Pesticides shall not be used on highway right-of-ways.

2. Other Content Considerations

(a) Background Material

It is recommended that regional districts adopt as the official community plan only the plan objectives, policies and policy maps, and that other background material not be adopted.

Many plans include background material (basic data, descriptions, explanations, analysis, rationale, etc.) along with objectives and policies. However, when background material is adopted as part of the plan, it may have to be amended as it becomes out of date. This will cost both money and time, and the plan amendment would have to be referred to agencies, be advertised, be subject to a public hearing and approved by the Minister.

For all of the above reasons and to reduce the likelihood of legal challenge, plans that are essentially objectives and policies are much favoured over those that include background material. This does not mean that this valuable information should not accompany the plan. It is possible to put in a single binding the background material, etc. and the enacted plan (the bylaw as well as all objectives and policies). For clarity and purpose of meaning these should be clearly separated in location in the binding, perhaps being printed on different coloured paper.

(b) Plan Format

(i) **It is recommended that objectives and policies be clearly distinguishable from one another. Each plan objective and policy should be labelled as an objective or policy. Each should be given a unique identifying number to facilitate cross-referencing, discussion or possibly plan amendment.**

Wording intended to be an objective or policy could begin, "It is the objective of this plan that..."; or; "It is the policy of the Regional District that...". The meaning is made very clear in this way.

Where objectives or policies are clearly enunciated the plan could not be challenged for failure to meet the requirements of the Act on those grounds.

(ii) **It is recommended that plan policies be directly tied to plan designations shown on maps.**

To enhance plan clarity, all plan policies should be developed and stated in such a way that there is a clear relationship between the written plan policies and the various land use designations shown on the policy map. One way of achieving this is to have a section of written policies related solely to each area designated on the map for a land use category. Each policy section could cover the general uses permitted, density or subdivision policy, and any criteria for redesignation to this land use designation. Policies which do not pertain to a specific designation could be grouped separately. All land regulated by regional districts should be covered by a map designation.

(iii) **It is recommended that official community plans be structured as simply and logically as possible.**

Plan structure will depend on how complex the plan area is. Where the situation is simple, objectives may be organized along with supporting policies. However, in complex situations - where policies perhaps cannot be logically matched with required objective statements - it may be beneficial to organize the plan into two main parts each with a different function:

- objectives;
- land use related policies - covering the items required in Section 945(2) of the Municipal Act and preferably tied to land use designations.

(c) Plan Content

It is recommended that all policy areas listed in Section 945(2) of the Act be covered in the plan.

For maximum legal certainty, each official community plan should contain objectives and policies covering all matters mentioned in the Act in the manner described. Where there are cases when required policies cannot be applied, there should be a statement to the effect that the item is not covered as it is not relevant in the plan area.

(d) Settlement Focus

It is recommended that official community plans focus on settlement issues.

The legislation emphasizes settlement and settlement issues. There is relatively little mention of non-settlement matters and so it is expected that official community plans would reflect this emphasis.

(e) Acknowledging Existing Uses

It is recommended that legally existing uses which would not fit with the map designation for the area be subject of a plan policy which would allow appropriate zoning regardless of plan designation.

A plan policy that allows legally existing uses to be zoned appropriately regardless of plan designation may be advisable. Use and density provisions would be included in the zone and any non-conforming siting could be dealt with using a development variance permit.

(f) Plan Authority

It is recommended that all plan policies be implementable by the regional district using the authority it has at the moment. Any change in authority can be reflected by plan amendment to change policy or include additional policies after further authority has been granted. The implementation of the plan should rely on the authority the regional district may exercise and should not be dependent on other agencies.

(g) Plan Jurisdiction

It is recommended that the plan and plan map only deal with policies for areas within plan boundaries. The manner in which the boundary is shown should leave little doubt about what is inside and what is outside the plan boundary, including water surfaces.

(h) Plan Maps

It is recommended that any plan map showing various land use area designations, the road network, lands subject to hazard policy, lands of special importance, the location of sites required to be identified, etc., be included in and made part of the plan by a policy statement. The exception to this is the map showing ALR designations.

There should be written policies for each of the land use area designations, the road network, use of hazard land, the use of lands of special importance, provisions of various sites, etc., shown on the policy plan map.

All Regional District, electoral area, municipal and improvement district boundaries should be shown distinctly and labelled.

Most designation boundaries on a plan map may be approximate, with regulatory bylaws interpreting the precise location of boundaries. The one exception to this is development permit areas which must be clearly and legally determinable.

D. MINISTERIAL APPROVAL OF OFFICIAL COMMUNITY PLANS

1. Provincial Interest in Official Community Plans

Official community plans submitted to the Minister for approval pursuant to Section 948 of the Municipal Act are reviewed to ensure they do not conflict with provincial interests.

Areas of provincial interest derive from the historical and evolving powers of the provincial government and the statutory responsibilities of provincial ministries. These include matters related to the Province's financial well-being, protection of the natural environment, management of natural resources, and the provision of communications and transportation networks.

The provincial interest in local government planning springs from the need to coordinate local government planning activities with provincial programs and policies. While delegating responsibility for community planning to local government, the Ministry of Municipal Affairs and Transit retains responsibility for assisting local government in carrying out its activities and for ensuring that their plans do not impede, compromise or ignore the provincial interest. This is accomplished by staff participation in local government planning activities and by Ministerial review and approval of regional district plans.

In very broad terms, provincial interest in local government planning can be defined as follows:

(a) Achievement of provincial policies and programs for economic, social and physical development.

(b) Efficient movement of people and goods within the official plan area by both public and private transportation facilities.

(c) Protection of the natural environment and the conservation and management of natural resources.

(d) Protection of the financial well-being of the province and the economic health of local government.

(e) Ensuring the coordination of planning activities between adjacent municipalities and regional districts.

(f) Provision of an adequate supply of land to meet projected population and economic growth.

(g) Protection of features of significant natural, architectural, historical or archaeological interest.

2. Local Interest

The recognition of provincial interest implies that there is also something called local interest. The province recognizes that much of the content of official community plans relates to matters of purely local concern; examples include such matters as the mix of land uses

within a given area of a community, local recreation needs and local road patterns. Such matters of local concern are recognized as the responsibility of local governments and it is not the intent of the Ministry of Municipal Affairs and Transit to impose a provincial view on such matters. Ministry staff will be guided by the definition of provincial interest given above when reviewing official community plans for approval by the Minister and will seek to confirm that the provincial interest has been recognized and safeguarded.

It should be noted, however, that some matters which appear to be purely local concern may become matters of provincial interest. For example, a particular "spot" amendment to an official community plan may not be of provincial concern, but the cumulative effect of many such amendments might be. Also, individuals and groups may write to the Minister respecting their concerns. It is the Minister's prerogative to consider such matters when she reviews an official community plan for approval.

3. Approval Considerations

Official community plans submitted for the Minister's approval will be reviewed to determine their compatibility with provincial interest. The following are the major areas of concern:

(a) A plan must comply with all requirements of the Municipal Act, including those in Sections 945, 948, and 956 to 959. All policy areas listed in Section 945 of the Act must be covered in the plan, or a written statement explaining why certain policy areas are not relevant in the plan area must be incorporated into the plan text.

(b) A plan must not contain any provisions which the Ministry has been advised are not authorized by legislation.

Where the Ministry is aware of a legal decision or has obtained a legal opinion stating that a certain provision or aspect of an official community plan is not authorized by legislation, the regional district will be advised that the plan cannot be approved.

Where the Ministry has not obtained a legal opinion, or where no legal decision has been given, the Ministry will recommend that the local government obtain a legal opinion on any matter the Ministry considers to be of doubtful legality. The decision to proceed with the plan as is, or to amend it, then rests with the local government. The Ministry's concern here is to ensure the local government is aware of any legal ramifications of the plan and its policies.

(c) A plan must not attempt to deal with matters of provincial authority or be contrary to provincial policy or provincial interest.

Section 945(5) of the Municipal Act prohibits an official community plan from containing policies on matters that are beyond the jurisdiction of local government. Only broad objectives may be stated unless the Minister has permitted otherwise.

During the preparation of the plan, provincial agencies will have had several opportunities to advise the local government of any concerns or interests they may wish to see considered in the plan. Local government is expected to either accommodate these matters in the plan or if there is a difference of opinion, seek a resolution with the agency concerned. The Ministry will assist if necessary.

As a rule, unless very unusual circumstances exist (eg. threat to public safety), the Ministry will not refuse to approve a plan on the basis that it is contrary to provincial policy or the provincial interests **unless these concerns were raised during the plan preparation stage.** Where a ministry discovers problems with a local government plan after it as received 3rd reading, the Ministry of Municipal Affairs and Transit may request that appropriate amendments be made to accommodate the concerns at the earliest opportunity following its adoption.

(d) The plan must fulfil the intent of the Act by providing a sound, rational basis for future development. This will include a review of the following criteria:

(i) Does the plan provide a rational and realistic framework for orderly growth and development?

(ii) Is the plan internally consistent? Are policies compatible with one another and with plan's objectives? If not, is there a process for conflict resolution contained within the plan?

(iii) Are the plan policies supported by adequate background studies or reasoned justification?

(iv) Can the plan be implemented? Is implementation within the jurisdiction of the local government? Does the plan provide adequate guidance for the development of implementing bylaws?

(v) Is the plan understandable in terms of wording and format?

(vi) Is the plan compatible with the official plans of adjacent municipalities and regional districts? In the absence of existing plans, is the plan acceptable to adjacent jurisdictions, or are there unresolved disputes?

(vii) Is the plan compatible with the economic strategy plan or waste management plan (if any)?

4. Conclusion

The above discussion on provincial interest is provided as a guide to local government on the types of matters considered by the Minister and the Ministry when reviewing regional district official community plans for approval. It is not intended to be all inclusive; rather, it is a general summary of provincial concerns. Matters not discussed above may

be considered by the Minister in her review of any particular community plan.

APPENDIX A

DESIGNATION REQUEST FORM

Province of British Columbia

Ministry of Municipal Affairs and Transit

DESIGNATION REQUEST

This form is to be fully completed and submitted with all requests for designation by the Minister of Municipal Affairs and Transit of:

- Community Plan Areas (S.944)
- Rural Planning Areas (S.950)
- Revitalization Areas (S.945 [4] [6])

MUNICIPALITY/REGIONAL DISTRICT:

MINISTRY USE ONLY
DATE RECEIVED | FILE No.

DESIGNATION NAME:

☐ COMMUNITY PLAN AREA S.944 ☐ RURAL PLANNING AREA S.950 ☐ REVITALIZATION AREA S.945 [4] [6]

GENERAL DESCRIPTION OF AREA AND MAJOR LAND USES

REASON FOR DESIGNATION:

EVIDENCE OF PUBLIC SUPPORT: (if applicable)

ATTACHED ARE TWO COPIES OF A MAP WHICH CLEARLY SHOW THE BOUNDARIES OF THE AREA TO BE DESIGNATED ☐

MINISTRY USE ONLY:

COMMENTS:

RECOMMENDATION:

SEE MEMO TO FILE ☐ | AUTHORIZATION

Please type.

Indicate the type of designation requested.

Describe the area to be designated. For an OCP or RLUB, include: amount and density of settlement; type of community services, if any; extent of resource lands, especially Provincial Forests. For a Revitalization Area, indicate whether the area is also a Downtown Revitalization Area.

Briefly describe the objectives to be achieved by the OCP, RLUB, or Revitalization Designation or the reasons the Board has decided to proceed with a designation request at this time.

Note any evidence of public support received by the Board. This includes petitions, letters, recommendations from APC's, referendums, etc.

The maps should show legal parcels so that the boundary may be precisely determined. 1:50,000 maps are suitable for most OCP's and RLUB's. Revitalization areas will require a more detailed map.

Use additional sheets if necessary.

Province of British Columbia

Ministry of Municipal Affairs and Transit

SECTION 948 SUBMISSION FORM

REGIONAL DISTRICT:	OFFICIAL COMMUNITY PLAN BYLAW No.:

In the case of a new official community plan or major amendment, this form is to be submitted to the Ministry of Municipal Affairs and Transit after 1st or 2nd reading along with the referral of the plan to the Ministry for confirmation.

In the case of minor official community plan amendments, this form is to be submitted to the Ministry of Municipal Affairs and Transit with the bylaw referral.

This bylaw has been examined in accordance with the *Municipal Act*, section 947 (2) (a) and is consistent with:

	Circle one for each		
a. The most recent capital expenditure program	Yes	No	N/A
b. Applicable waste management plans	Yes	No	N/A
c. Applicable economic strategy plans	Yes	No	N/A

COMMENTS/ATTACHMENTS:

Signed by: _____ Title: _____

Name: _____ Date: _____

Province of British Columbia

Ministry of Municipal Affairs and Transit

BYLAW REFERRAL FORM

REGIONAL DISTRICT:	BYLAW No.:
	DATE:

You are requested to comment on the attached bylaw for potential effect on your agency's interests. We would appreciate your response within _____ days. If no response is received within that time, it will be assumed that your agency's interests are unaffected.

PURPOSE OF THE BYLAW:

GENERAL LOCATION:

LEGAL DESCRIPTION:

AREA OF PROPERTY AFFECTED: ALR STATUS: OCP DESIGNATION:

OTHER INFORMATION:

Please fill out the Response Summary on the back of this form. If your agency's interests are "Unaffected" no further information is necessary. In all other cases, we would appreciate receiving additional information to substantiate your position and, if necessary, outline any conditions related to your position. Please note any legislation or official government policy which would affect our consideration of this bylaw.

_____ (Signature)

_____ (Title)

This referral has also been sent to the following agencies:

- ☐ Health
- ☐ Transportation and Highways
- ☐ Environment and Parks
- ☐ Municipal Affairs and Transit
- ☐ Agricultural Land Commission
- ☐ Lands
- ☐ Parks and Outdoor Recreation Division
- ☐ Agriculture and Fisheries
- ☐ Forests
- ☐ Energy, Mines and Petroleum Resources
- ☐ Other, please specify: _____

_____

PLEASE TURN OVER

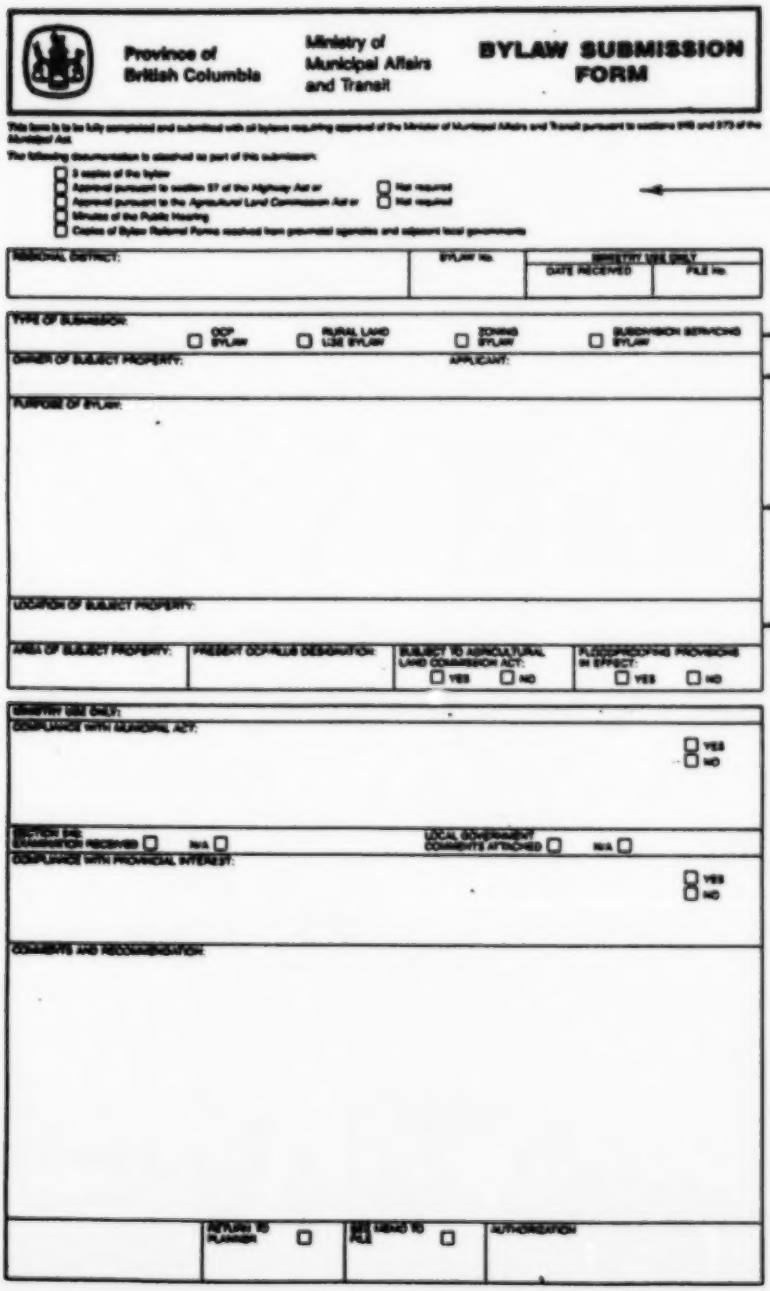
RESPONSE SUMMARY

- ☐ Approval Recommended for Reasons Outlined Below
- ☐ Approval Recommended Subject to Conditions Below
- ☐ Interests Unaffected by Bylaw
- ☐ Approval Note Recommended Due to Reasons Outlined Below

Signed By: _____ Title: _____

Date: _____ Agency: _____

BYLAW SUBMISSION FORM



Province of British Columbia

Ministry of Municipal Affairs and Transit

BYLAW SUBMISSION FORM

Please type.

Please use this checklist and enclose all relevant items with the Submission.

Indicate type of bylaw submitted.

Giver owner's and applicant's name.

Describe briefly what the purpose of the bylaw is. Indicate the current regulation, what is is being changed to, and why the change is being made (or what it will permit to take place). e.g.: rezone from Rural 1 to Residential 2 to permit construction of a two-family dwelling.

Give street address or approximate vicinity.

Use additional sheets if necessary.